

UNITED STATES DISTRICT COURT

for the

Southern District of TexasUnited States Courts
Southern District of Texas
FILED

November 14, 2024

Nathan Ochsner, Clerk of Court

United States of America
v.

Case No.

4:24-mj-498

Jesus Luciano Nunez

Defendant(s)

CRIMINAL COMPLAINT

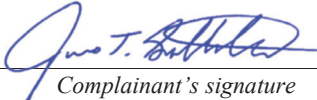
I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 13, 2024 in the county of Montgomery in the
Southern District of Texas, the defendant(s) violated:*Code Section**Offense Description*

Title 18 U.S.C §§ 922(a)(6) and 2 Aiding and Abetting a False Statement to a Firearms Dealer

This criminal complaint is based on these facts:

See the attached affidavit

☒ Continued on the attached sheet.
Complainant's signature

ATF Special Agent James Settelen

Printed name and title

- ☐ Sworn to before me and signed in my presence.
☒ Sworn to telephonically and signed electronically.

Date: November 14, 2024
*Judge's signature*City and state: Houston, Texas

United States Magistrate Judge Peter Bray

Printed name and title

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN THE MATTER OF THE
ARREST OF:

JESUS LUCIANO NUNEZ

§
§
§
§
§

4:24-mj-498

MAGISTRATE NO.

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, James Settelen, being duly sworn, depose and state the following:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). During my time as a Special Agent, I have investigated numerous federal firearms violations, including straw purchases of weapons and other weapons trafficking offenses. During my career with the ATF, I have also participated in numerous searches and arrests involving violations of federal firearms laws.

2. I make this Affidavit in support of a criminal complaint to be presented to the United States District Court for the Southern District of Texas in the matter of United States v. **Jesus Luciano Nunez**.

3. This complaint charges that on or about November 13, 2024, in the Southern District of Texas, **Jesus Luciano Nunez**, knowingly aided and abetting a false or fictitious written statement intended to deceive a licensed firearms dealer in connection to the acquisition of a firearm, namely an FN, M249S, 5.56 caliber, rifle, serial number M249SA09700, in violation of Title 18, United States Code §§ 922(a)(6) and 2.

4. I base this summary of the facts upon information from my personal investigation, information provided to me by other law enforcement officers, and records required to be kept by the Federal Firearm Licensee (FFL) in question. This is a summary of the basic facts and not a

complete description of all the information in the case. It is intended solely to demonstrate that there is sufficient evidence to establish probable cause that **Jesus Luciano Nunez** committed the crime in question.

5. On October 28, 2024, Maday Mali Hernandez purchased two F.N. M249S, 5.56 caliber rifles, serial numbers, M249SA10871 and M249SA10876 from FFL MUNTJAC Outdoors LLC located in Willis, Texas. This sale was documented in a National Tracing Center, Multiple Sale Summary, number M20240457421. The purchase price for the two firearms was \$22,601.84. Hernandez made this payment by a combination of credit/debit cards and cash.

6. On November 9, 2024, ATF received information from FFL SPIELVOGEL, ADAM MATTHEW that a suspicious firearms transaction occurred by Maday Mali Hernandez. Hernandez arrived at the FFL location and purchased two (2) Century Arms, BFT47, 7.62 caliber rifles, serial numbers, BFT47020441 and BFT47020410. An unknown male was with Hernandez at the time of purchase. This individual told the FFL he previously contacted him about making firearms purchases. ATF was provided the males phone number as 936-766-8681. The subscriber on the phone number is **Jesus Luciano Nunez**. During the transaction with Hernandez, **Jesus Luciano Nunez** asked the FFL about purchasing expensive firearms, such as Barrett, .50 caliber rifles and F.N. M249S rifles. These firearms are known by ATF to be weapons of choice for drug trafficking organizations. **Jesus Luciano Nunez** also asked suspicious questions regarding the maximum number of firearms he could purchase in a day. **Jesus Luciano Nunez** told the FFL he would like to buy the M249S rifle and would come back later.

7. On November 9, 2024, ATF conducted background research on and **Jesus Luciano Nunez** and found that he was previously investigated by ATF in 2022 for dealing firearms without a license. **Jesus Luciano Nunez** had previously been interviewed by ATF on January 6, 2022.

Jesus Luciano Nunez had stated he was buying firearms, gold plating them, and reselling them at gun shows. ATF warned **Jesus Luciano Nunez** it was a violation of Federal law to be engaged in the business of dealing firearms without a license. Additionally, during that investigation, ATF discovered **Jesus Luciano Nunez's** spouse, Cindy Nunez, purchased over twenty-five firearms. One of the firearms purchased by Cindy Nunez, a Zastava Arms USA, Z-PAP M70, serial number Z70-081101 was recovered in the country of Mexico approximately 121 days after purchase. ATF interviewed Cindy Nunez and also provided her a warning.

8. On November 9, 2024, ATF reviewed **Jesus Luciano Nunez's** U.S. Customs and Border Protection Encounter History and observed that he crossed the southern border to the country of Mexico once in 2021, once in 2022, and twice in 2023. In a later interview, **Nunez** stated he had family in Mexico.

9. On November 10, 2024, **Jesus Luciano Nunez** contacted FFL SPIELVOGEL, ADAM MATTHEW to arrange the purchase of the F.N. M249S rifle. An appointment was made for November 13, 2024. ATF conducted surveillance of the FFL location at the scheduled appointment time to determine if violations of federal firearms laws were taking place.

10. On November 13, 2024, **Jesus Luciano Nunez** informed the FFL he would not be able to purchase the firearm, but a friend also wanted to buy the firearm. He then suggested, to the FFL, that Maday Hernandez could come purchase the firearm. The FFL informed **Nunez** that whoever the firearm is for can complete the purchase.

11. On November 13, 2024, ATF observed Maday Mali Hernandez arrive at the FFL location. Hernandez purchased an FN, M249S, 5.56 caliber rifle, serial number M249SA09700 from FFL SPIELVOGEL, ADAM MATTHEW for \$11,419.29. The FFL's license number, issued by ATF on March 31, 2021, is 5-76-339-01-4D-07138 (57607138). Hernandez paid \$9420.35

Cash and \$1998.94 through Apple pay. Shortly after purchase, ATF received the video of the transaction inside the business and Hernandez stated she did not want to pay over \$10,000 in cash due to the business having to file a report to the internal revenue service (IRS). It is required by Title 31 United States Code 5331 for businesses to file an IRS form 8300 when payments are made for goods with more than \$10,000 Cash. Further, it is a violation of Title 31 United States Code § 5324 to structure payments to avoid a reporting requirement.

12. During the transaction, Maday Hernandez completed an ATF Form 4473 (Firearms transaction record) for the purchase of the firearm in question. Federal Firearms Licensees (FFLs) are required to keep the ATF Form 4473. The Form is completed by the purchaser of the firearm and includes information regarding the name, age, current residence of the purchaser, and the purchaser's certification that he or she is not prohibited from possessing firearms. The Form also includes a certification by the purchaser that that person is the actual transferee of the firearm, in other words, that the person is purchasing the firearm for themselves, and not someone else.

13. A "straw purchase" occurs when the actual buyer of a firearm uses another person, a "straw purchaser," to execute the paperwork necessary to purchase a firearm from a federally licensed firearms dealer (FFL). A straw purchaser is a person with a clean background—in other words, someone who is not prohibited under federal law from purchasing firearms—who purchases firearms on behalf of another person, this could be for a person prohibited from purchasing a firearm, or in this case someone who does not want their information associated to the purchase of the firearm via the ATF Form 4473. The straw purchaser violates federal law by making a false statement to the FFL about a material fact by lying on the ATF Form 4473, namely, that they are the actual transferee (recipient) of the firearm in question. The ATF Form 4473

specifically warns the buyer that they are not the actual buyer if they are purchasing on behalf of another person and warns the buyer that making a false statement on the Form 4473 is a felony.

14. On November 13, 2024, I reviewed a copy of the ATF Form 4473 completed by Maday Mali Hernandez. Hernandez marked in box 21.a. that she was the actual transferee/buyer of the FN, M249S, 5.56 caliber rifle, serial number M249SA09700, when in fact Hernandez purchased the firearm on behalf of, and at the direction of, **Jesus Luciano Nunez**.

15. On November 13, 2024, ATF conducted surveillance of Hernandez when she departed the FFL with the firearm in question. She immediately drove to 10200 SH-242 E, Conroe, TX 77385, which is the parking lot of the HEB grocery store. Hernandez parked in the back of the parking lot. A short time later, a white, Cadillac, CTS, sedan bearing California license plate 9BYR818 arrived. The vehicle parked next to Hernandez. A male exited the vehicle and was immediately recognized by ATF as **Jesus Luciano Nunez**. **Jesus Luciano Nunez** spoke to Hernandez and then took the FN, M249S, 5.56 caliber rifle, serial number M249SA09700 from the bed of the truck and placed it into the Cadillac sedan. Observing the transfer of the firearm from Hernandez directly after the firearm was purchased, confirmed the firearm was for **Nunez**. ATF initiated a vehicle take-down and detained **Jesus Luciano Nunez** and Maday Hernandez. Also with **Jesus Luciano Nunez** was a minor child whom he indicated was his 12-year-old son.

16. A custodial interview of Maday Hernandez was conducted. Hernandez was read her *Miranda* Warnings and waived those rights, agreeing to speak to Agents without an attorney present. During the interview, Hernandez admitted to straw purchasing the firearm on behalf of **Jesus Luciano Nunez**. Among other things, Hernandez told investigators that she purchased approximately twenty other firearms on behalf of **Nunez**. In exchange for purchasing the firearms, **Jesus Luciano Nunez** provided monetary support to Hernandez and assisted with payment of bills.

Hernandez stated she met **Jesus Luciano Nunez** earlier that day and **Jesus Luciano Nunez** provided her the money to complete the purchase.

17. A custodial interview of **Jesus Luciano Nunez** was conducted. **Nunez** was read his *Miranda* Warnings and waived those rights, agreeing to speak to Agents without an attorney present. **Jesus Luciano Nunez** confessed to recruiting Hernandez to purchase the firearm on his behalf. Additionally, **Jesus Luciano Nunez** admitted recruiting two other individuals to straw purchase firearms on his behalf, one being his wife, Cindy Nunez. According to **Nunez**, the third straw buyer purchased a firearm for him earlier the same day, which **Jesus Luciano Nunez** received and subsequently immediately sold to an unknown individual.

18. On November 13, 2024, ATF searched the vehicle driven by **Jesus Luciano Nunez**. Within the vehicle, ATF located and seized four additional firearms and receipts for numerous other firearms purchases. One of the receipts was for the purchase of an F.N. M249S 5.56 caliber rifle, serial number M249SA11372 from FFL North Houston Guns and Ammo. The receipt listed Cindy Nunez as the purchaser on or about November 10, 2024. It was later determined this firearm was purchased at a gun show in the Austin, Texas area. ATF also seized approximately \$11,500 cash from **Jesus Luciano Nunez**.

19. On November 13, 2024, **Jesus Luciano Nunez** provided written consent to search two cell phones found in his possession. Within the devices, ATF found that **Jesus Luciano Nunez** had extensive text message conversations with numerous individuals selling firearms. **Jesus Luciano Nunez** stated one individual bought seven, M249S rifles from him which were purchased by Maday Hernandez and Cindy Nunez. **Jesus Luciano Nunez** also stated he sold a load of eleven (11) AK style firearms to another individual on or about November 12, 2024. **Jesus Luciano Nunez** showed agents a video of the load of firearms in the trunk of his vehicle. These firearms

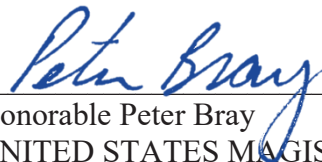
were procured by **Jesus Luciano Nunez** through a combination of straw purchasers and private sales. Investigators asked **Nunez** where he believed the firearms were going and he stated Mexico. He named two cities in Mexico where the firearms would likely end up. He later clarified the buyers never told him directly the firearms would go to Mexico, but it was understood by him based on the firearm types.

20. Based on the foregoing facts, I believe that probable cause exists to establish that **Jesus Luciano Nunez**, knowingly aided and abetting the false or fictitious written statement intended to deceive a licensed firearm dealer in connection to the acquisition of a firearm in the Southern District of Texas in violation of Title 18, United States Code, §§ 922(a)(6) and 2.



James Settelen
Special Agent, Bureau of Alcohol, Tobacco,
Firearms and Explosives (ATF)

SUBSCRIBED AND SWORN TO me telephonically this 14th day of July 2024, and I find probable cause.



Honorable Peter Bray
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF TEXAS